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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,564	08/26/2003	Michael A. Fairchild	10991902-3	5974

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EXAMINER

MOUTTET, BLAISE L

ART UNIT PAPER NUMBER

2853

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/649,564	Applicant(s) FAIRCHILD ET AL.	
	Examiner Blaise L. Mouttet	Art Unit 2853	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 41-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 41-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 41-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Kikuchi et al. US 4,657,415.

Kikuchi et al. discloses, regarding claim 41, a method of establishing positions of a carriage (14) about a rod (15) to which the carriage is rotatably mounted and along which the carriage (14) is slidable while guided for such sliding movement by a slider member (19) on the carriage (14) (figure 4), comprising:

mounting a movable latch member (comprising shoe 17, leaf spring 18, gear 21 and gap changing lever 22) to the carriage (14) (the movable latch member rotates a cylindrical screw which maintains the carriage in a particular latched tilted position as shown and described in relation to figures 2-4);

moving the carriage (14) to a selected latching location on the rod (15) to a selected latching location (home position A) near a first chassis part (32) (figure 5, column 4, lines 17-30);

rotating the carriage (14) about the rod (15) with the carriage (14) at the latching location (A) to make the latch member (17, 18, 21, 22) engages the first chassis part (32) and secure the slider member (19) in a latched position thereby to establish a first

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rotational position of the carriage (14) when the slider member (19) guides the sliding movement of the carriage (14) (column 4, lines 33-45, figure 5).

Regarding claim 42, the latched position of the slider member (19) is altered between two positions upon movement of the latching member (17, 18, 21, 22) to establish additional rotational positions as described in relation to figures 2 and 3.

Regarding claim 43, the movable latch member (17, 18, 21, 22) includes bendable lever (leaf spring 18).

Kikuchi et al. discloses, regarding claim 44, a method of securing a carriage (14) about an elongated support rod (15) comprising the steps of:

mounting a pusher member (solenoid) to a chassis (28) relative to which the carriage (14) moves (column 4, lines 53-60);

moving the carriage (14) to a predetermined axial position (A) along the length of the support rod (15) (column 4, lines 35-39);

rotating the carriage (14) about a support rod (15) using the pusher member while the carriage (14) is at the axial position (A) as shown and described with reference to figures 4 and 5 and column 4, lines 53-60;

mounting to the carriage (14) a latch mechanism (17, 18, 21, 22) that is oriented for engagement with the chassis (28) and movement into a latch position wherein the carriage (14) is secured in the first rotational position when the latch mechanism (17, 18, 21, 22) is in the latched position as described with reference to figures 4 and 5; and

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locating the latch mechanism (17, 18, 21, 22) so that the movement thereof occurs as a result of the carriage rotation using the pusher member (column 4, lines 53-57).

Regarding claim 45, the latch mechanism (17, 18, 21, 22) includes a bendable lever (leaf spring 18).

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 41-45 are rejected under the judicially created doctrine of obviousness-

type double patenting as being unpatentable over claims 1, 3, 6, 17 and 18 of U.S.

Patent No. 6,672,696. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter of claims 41-45 is fully incorporated into the claims of U.S. Patent No. 6,672,696 with claim 1 of US 6,672,696 corresponding to claim 41, claim 3 of US 6,672,696 corresponding to claim 42, claim 6

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of US 6,672,696 corresponding to claim 43, claim 17 of US 6,672,696 corresponding to claim 44 and claim 18 of US 6,672,696 corresponding to claim 45.

***Contact Information***

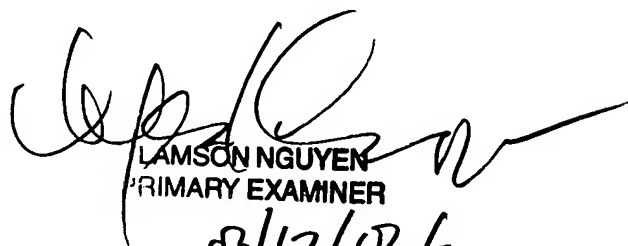
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Blaise Mouttet who may be reached at telephone number (571) 272-2150. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier, Art Unit 2853, can be reached at (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Blaise Mouttet March 3, 2004

Bm 3/3/2004

  
LAMSON NGUYEN  
PRIMARY EXAMINER  
03/17/04